

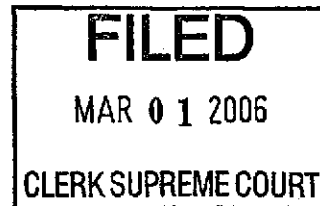
IN THE COURT OF APPEALS OF IOWA

6-070 / 05-0322
Filed March 1, 2006

ROBERT J. GILES,
Plaintiff-Appellant,

vs.

STATE OF IOWA, IOWA PUBLIC
EMPLOYMENT RELATIONS BOARD,
JAMES R. RIORDAN, M. SUE WARNER,
NEIL A. BARRICK,
Defendants-Appellees.



Appeal from the Iowa District Court for Polk County, Carla T. Schemmel,
Judge.

Robert Giles appeals from the district court's dismissal of his petition for
judicial review. **AFFIRMED.**

Robert Giles, Knoxville, pro se.

Jan Berry, Des Moines, for appellees.

Considered by Zimmer, P.J., and Miller and Hecht, JJ.

PER CURIAM

Robert Giles appeals from the district court's dismissal of his petition for judicial review of two decisions by the Iowa Public Employment Relations Board (PERB). The court dismissed the petition upon the motion of PERB and its individual members after concluding Giles's failure to serve the petition on the State of Iowa, as required by Iowa Code section 17A.19(2) (2003), deprived the district court of jurisdiction over the case. Upon our review for the correction of errors at law, *Aluminum Co. of America v. Musal*, 622 N.W.2d 476, 478 (Iowa 2001), we affirm the district court.

Section 17A.19(2) requires, in relevant part,

Within ten days after the filing of a petition for judicial review the petitioner shall serve by the means provided in the Iowa rules of civil procedure for the personal service of an original notice, or shall mail copies of the petition to all parties named in the petition and, if the petition involves review of agency action in a contested case, all parties of record in that case before the agency. Such personal service or mailing shall be jurisdictional. The delivery by personal service or mailing referred to in this subsection may be made upon the party's attorney of record in the proceeding before the agency.

(Emphasis added.)

Here, the State was named in the petition and was a party of record before the agency. Accordingly, even though Giles's petition for judicial review challenged the actions of PERB and its individual members, he was still required serve the State with a copy of the petition. Although Giles delivered a copy of the petition to the office of PERB's attorney, he made no effort to serve any other person or entity and there is no evidence the State was otherwise made aware of

the petition. Even if we assume Giles adequately served PERB and its individual members, service on PERB's counsel is not service upon the State.¹

Section 17A.19(2) expressly provides that its service requirements are jurisdictional. This means that if Giles did not substantially comply with the requirement to serve all parties, the district court did not acquire jurisdiction over his petition for judicial review. See *Richards v. Iowa Dep't of Revenue*, 362 N.W.2d 486, 487 (Iowa 1985). Because Giles did not serve or even attempt to serve the State, the district court lacked the authority to hear, consider, and rule upon his petition. See *Record v. Iowa Merit Employment Dep't*, 285 N.W.2d 169, 173 (Iowa 1979) (reaching same conclusion in a case where the petitioner, an employee of the State of Iowa Department of Job Service, served the agency that ruled on his discharge appeal, but did not serve the State).

Although Giles contends he was deprived of due process because he was held "to a higher standard of court rules and procedural conduct" than PERB's attorney, this claim has no bearing on the jurisdictional question. Because the district court did not acquire jurisdiction over the petition for judicial review, it had no choice but to dismiss the petition.

AFFIRMED.

¹ The PERB decisions for which Giles sought judicial review were dismissals of grievance appeals that arose out of his employment with the State of Iowa Department of Corrections. Thus, the State of Iowa Department of Corrections had a role in this proceeding separate and distinct from PERB. The State is the party whose actions were being challenged; PERB is the agency charged with assessing the validity of those actions.